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August 15, 2024

By ECF

Hon. Arun Subramanian
United States District Court
For the Southern District of New York
500 Pearl Street, Courtroom 15A
New York, New York 10007

Re: *Apollo Capital Corp., v. Astra Veda Corporation* (23-cv-09708-AS)

Dear Judge Subramanian:

This office is counsel to defendant Astra Veda Corp (“Astra” or “Defendant”). We write this letter jointly with counsel for plaintiff Apollo Capital Corp. (“Apollo” or “Plaintiff”) in accordance with the directive of the Court set forth in the August 7, 2024, Opinion and Order (“Opinion”). As demonstrated by Plaintiff’s letter submitted yesterday, the parties, in an effort to resolve this matter, have agreed to have the matter referred to a Magistrate Judge for the purpose of a mediation/settlement discussion, and thus have requested that issues relating to the continuation of the litigation, including discovery, be addressed if the matter is not resolved.

However, it is the intent of Astra to file a limited motion for reconsideration. Unfortunately, the federal rules do not allow the parties, or even the Court, to extend the time for the filing of such motion. *Lichtenberg v. Besicorp Grp. Inc.*, 204 F.3d 397 (2d Cir. 2000) (Requirement that request for reconsideration of judgment be filed within ten days after entry of judgment, excluding intermediate Saturdays, Sundays and legal holidays, is uncompromisable, and may not be extended by trial court. Fed.Rules Civ.Proc.Rules 6(a, b), 59(e)...). To that end, the parties have conferred. Astra proposes, and Apollo does not object, that the scheduling for the date for Plaintiff to oppose, and Astra to submit a reply, be delayed until after completion of the parties’ work with the Magistrate. If the case is resolved, the motion is moot. If the case is not, the parties will inform the Court and provide an agreed-upon briefing schedule. Apollo’s position is that such a motion for reconsideration already is untimely.

Law Offices of Barry M. Bordetsky

Hon. Arun Subramanian
August 15, 2024
Page 2 of 2

We thank the Court for its consideration of this issue.

Respectfully Submitted,

Law Offices of Barry M. Bordetsky

By: /s/ Barry M. Bordetsky
Barry M. Bordetsky

c: Peter R. Ginsberg (ECF)

The request for reference to Magistrate Judge Moses is GRANTED (Dkt. 70). The Court will issue an order of reference. The requests for a stay of briefing on the motion for reconsideration and of further proceedings in this case are DENIED. The Court does not stay proceedings in light of anticipated settlement discussions. However, if the parties speak to each other concerning settlement, and make significant progress such that they believe a resolution is likely, then the Court will consider a stay at that juncture.

The Clerk of Court is directed to terminate Dkt. 71.

SO ORDERED.



Arun Subramanian, U.S.D.J.
Date: August 16, 2024